

OFFICE OF AUDITS AND COMPLIANCE

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JUN 24 2009

Robert A. Hawley, Deputy Executive Director
State Bar of California
180 Howard Street, 9th Floor
San Francisco, CA 94105

Dear Mr. Hawley:

The California Department of Corrections and Rehabilitation's (CDCR) Office of Audits and Compliance (OAC) completed a program compliance audit of contract numbers P05.1007, P05.2012, P07.3008, and P07.4001, between CDCR's Division of Adult Parole and the State Bar of California. Audit fieldwork was conducted during the period of October 6, 2008 through November 7, 2008. The audit covered the period of July 1, 2007 through June 30, 2008.

Enclosed is a copy of the final report. This report includes your response.

Should you have any questions or require additional information regarding the contents of this report, please contact Timothy Adams, Supervising Management Auditor, OAC, at (916) 255-2701.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard C. Krupp". The signature is fluid and cursive, with a large initial "R" and "K".

RICHARD C. KRUPP, Ph.D.
Assistant Secretary
Office of Audits and Compliance

Enclosure

cc: Sharon Beverstock, VIP Mentors, San Francisco
Tom Hoffman, Division of Adult Paroles
Robert Ambroselli, Division of Adult Paroles
Timothy Adams, OAC

PROGRAM COMPLIANCE AUDIT
STATE BAR OF CALIFORNIA



FINAL AUDIT REPORT

Prepared by:

California Department of Corrections and Rehabilitation's
Office of Audits and Compliance
Audits Branch

MAY 2009

STATE BAR OF CALIFORNIA

CONTRACT NUMBERS P05.1007, P05.2012, P07.3008, and P07.4001

Office of Audits and Compliance
Timothy Adams, Supervising Management Auditor
Sharon Candalot, Staff Management Auditor
Sue Lupinetti, Management Auditor

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AUDITOR'S REPORT

Robert A. Hawley, Deputy Executive Director
State Bar of California
180 Howard Street, 9th Floor
San Francisco, CA 94105

Dear Mr. Hawley:

The California Department of Corrections and Rehabilitation's (CDCR) Office of Audits and Compliance's (OAC) Audits Branch, completed a program compliance audit of contract numbers P05.1007, P05.2012, P07.3008, and P07.4001 between the State Bar of California and CDCR's Division of Adult Parole Operations (DAPO).

Under the terms of the agreement, the contractor agreed to provide a one-on-one mentoring program for parolees. VIP Mentors, Inc. (VIP), a subcontractor to the State Bar, is the nonprofit organization providing actual services for the attorney volunteer mentoring program.

The costs for these services were not to exceed the contract amounts listed in the table below.

Location of VIP Programs	Contract Terms	Amount
Region I Sacramento, Fresno , Kern	7/1/05-6/30/08	\$557,856
Region II San Francisco	7/1/06-6/30/09	\$261,832
Region III Long Beach, Pasadena	7/1/07-6/30/08	\$143,388
Region IV Orange, Riverside	7/1/07-6/30/10	\$403,138

The Audits Branch conducted the audit in accordance with Generally Accepted Governmental Auditing Standards, including tests of controls and other such auditing procedures considered necessary under the circumstances.

The scope of the audit was limited to program compliance activities for the period of July 1, 2007 through June 30, 2008. The audit fieldwork was conducted during the period of October 6, 2008 through November 7, 2008.

The specific objective of the audit was to determine whether VIP complied with the programming conditions and terms of the contracts.

The procedures performed in the audit included:

- A review of programming files to determine if the mentoring services were rendered in accordance with contract requirements.
- Interviews with program directors to gain an understanding of the program and evaluate the adequacy of its existing internal controls.
- Interviews with CDCR parole staff to provide feedback of the program.

The audit identified five findings, consisting of: (1) noncompliance with monthly match contract requirements; (2) not meeting ancillary contract objectives; (3) matches not being terminated in accordance with the contract; (4) noncompliance with contract reporting requirements; and (5) occupations other than attorneys being used as mentors. In addition, there are three observations: (A) weak match recordkeeping and internal controls; (B) Parole Region II's dissatisfaction with VIP Mentors; and (C) questionable judgment by attorney mentors.

Observations highlight certain areas that may be of interest to users of the audit report. Observations differ from audit findings in that they may not include attributes (condition, effect, criteria, cause, and recommendation) that are presented in audit findings. Because the audit was limited to selected test periods, OAC does not express an opinion on the contractor's internal controls or contract compliance as a whole.

RICHARD C. KRUPP, Ph.D.
Assistant Secretary
Office of Audits and Compliance

November 7, 2008 (last date of fieldwork)

EXECUTIVE SUMMARY

CDCR contracted with the State Bar of California through contract numbers P05.1007, P05.2012, P07.3008, and P07.4001 to provide mentoring services for parolees in the adult parole system. The State Bar subcontracts with VIP Mentors for these services. VIP is a non-profit organization that recruits, matches, and assists parolees and volunteer attorneys for a one-on-one mentoring relationship.

OAC performed a program compliance audit of the State Bar of California for the contract period of July 1, 2007 through June 30, 2008.

The audit of the four contracts identified five findings and three observations. The findings and observations are summarized below and are discussed in more detail in the Findings and Recommendations and Observations and Recommendations' sections of this report.

FINDING 1: Noncompliance with the Monthly Match Contract Requirements

The contracts require 30 mentoring matches for all programs (except Kern, which has a 15-match requirement). None of the seven programs audited were in compliance with this requirement.

VIP responded to this finding by separating it into the following four categories:

a. Monthly Match Requirements

VIP's RESPONSE:

VIP disagrees with the finding because there are no contractual requirements for matches to meet monthly. VIP claims that the contracts do not require that the matches meet monthly, or for a specified number of hours each month. Additionally, VIP states that although VIP's website and informational material that is provided to the mentors indicates that mentors check in with parolees every week by phone and spend between three to five hours a month on activities, this is informational only and is intended to provide prospective mentors with general information. VIP objects to the application of any performance measurements or benchmarks not found in the contract for purposes of determining program compliance. VIP states that because some matches had no contacts in a month should have no bearing upon whether a quality mentor/mentee relationship exists and these matches should still be counted as a match. VIP concludes that the statement that none of the programs were in compliance is flawed and not supported.

AUDIT BRANCH'S COMMENTS:

The VIP match numbers at face value would indicate the monthly matches were met; however, the auditors learned that the program managers took credit for

matches where there was little (less than 3 hours) or no contact between the mentor and mentee for several consecutive months. Further analysis of the data was performed by the auditors and it was determined that none of the seven VIP programs audited were in compliance with the contract and/or VIP's guidelines.

The parole staff interviewed during the audit agreed that consistent and frequent contact is needed for a quality relationship, which is the outcome the Department expects from this contract for mentoring services.

VIP's printed literature and website information regarding weekly phone calls and the number of monthly face-to-face contacts between the mentors and parolees indicates that this is more than merely a suggestion. At times, auditors have to rely upon the auditee's literature and company policies as criteria when evaluating the auditee's performance; particularly, when contract language is vague or silent on performance expectations.

According to the Government Accounting Office (GAO), which has responsibility for developing and updating the standards by which this audit was conducted: "Criteria are the standards, measures, expectations of what should exist, best practices, and benchmarks against which performance is compared or evaluated...in selecting criteria, auditors have a responsibility to use criteria that are reasonable, attainable, and relevant to the objectives of the performance audit. The following are some examples of possible criteria: a. purpose or goals prescribed by law or regulation or set by officials of the audited entity. GAO 7.28"

b. *New Matches*

VIP's RESPONSE:

VIP claims that the report appears to draw significance from the fact that there are 125,702 parolees in the State, yet VIP only provided services to 160 new parolees during FY 2007/2008. VIP states that not all parolees are open to having mentors and that it helps to understand the program manager's job duties when considering the number of new matches that can reasonably be required from one person. Program managers are responsible for everything from daily clerical tasks to recruiting new mentors to recruiting parolees. The contracts do not require that VIP match all parolees.

AUDIT BRANCH'S COMMENTS:

This portion of the finding is an observation regarding matches, not a contract requirement. Per Government Code, Section 13403, auditors are responsible for evaluating an agency's ability to safeguard government funds and promote operational efficiency. The auditors agree that not all parolees will be open to a mentoring relationship; however, a participation rate of less than 1/7 of 1 percent raises questions as to the effective use of State funds given the current financial situation of the State.

During the audit the auditors were told by each of the program managers that they participated in parole activities outside the scope of their job duties with VIP. VIP states that CDCR needs to take into account the program manager's overwhelming job duties; however, based upon their own admissions the program managers are working beyond what is required in the contract requirements by participating in activities outside of the contract's scope of duties. The goal of the VIP program should be directed towards matching parolees with mentors.

c. *Availability of Attorneys*

VIP's RESPONSE:

VIP states that recruiting attorneys is not difficult. Recruiting for parolees with special needs, demographics or circumstances will always be more difficult regardless of the volunteer program. Because parolees outnumber attorneys, it should be no surprise that there is a greater demand for services on the parolee side. VIP further claims that the audit report does not elaborate on what the recruitment issues are, or whether this opinion is validated or even correct.

AUDIT BRANCH'S COMMENTS:

This portion of the finding is an observation regarding matches, not a contract requirement. The deputy director and the program managers from Long Beach, Pasadena, Orange, and Riverside told auditors during interviews that they have experienced difficulties in recruiting attorneys, although the executive director disagreed.

d. *Waiting to be Matched*

VIP's RESPONSE:

VIP claims that the numbers used in the audit report are used strictly as an internal control for management purposes. These numbers serve as a general guide to help the managers determine whether a program director needs help recruiting and monitoring the program's needs. VIP will never be able to match all parolees who request mentors. For VIP to be held to a standard of matching all or 100 percent seems a little unreasonable and is not required by the terms of the contracts.

AUDIT BRANCH'S COMMENTS:

This portion of the finding is an observation regarding matches, not a contract requirement. The auditors acknowledge that the larger number of parolees in comparison to the number of attorneys waiting to be matched supports the attorney recruitment problems.

FINDING 2: Not Meeting Ancillary Contract Objectives

Only one of the seven programs audited was in compliance with the required ancillary contract objectives. The contract objectives included community education presentations, public media relation activities, recognition events, social events, and group activities.

VIP's RESPONSE:

VIP does not dispute the finding.

AUDIT BRANCH'S COMMENTS:

Concur.

FINDING 3: Matches Not Being Terminated In Accordance with the Contract

The contract does not allow a match to remain active beyond six months after discharge from parole, unless there is continuous contact between the mentor and mentee. Four of the seven programs failed to comply with this requirement, due to the fact that they were continuing to count matches beyond the six months.

VIP's RESPONSE:

VIP does not dispute the finding.

AUDIT BRANCH'S COMMENTS:

Concur.

FINDING 4: Noncompliance with Contract Reporting Requirements

A report outlining the goals, accomplishments, and effectiveness of the program is required to be submitted to CDCR each year by June 30 for each of the four contracts. Per the current executive director, this yearly report has never been produced.

VIP's RESPONSE:

VIP states; "While the terms of the contracts request such annual reports, the historic course of dealing has been not to require them."

AUDIT BRANCH'S COMMENTS:

The annual reports would have provided CDCR with information needed to evaluate the effectiveness of the program. VIP was not in compliance with the contract requirements due to not submitting the annual reports to CDCR.

FINDING 5: Occupations Other Than Attorneys Being Used as Mentors

The purpose of the contract is for VIP to facilitate volunteer attorney involvement in the criminal justice system by initiating one-on-one relationships between parolees and volunteer attorneys. Two programs have matches in which the mentors are not attorneys. Moreover, the two program directors claim that these matches are their best matches.

VIP's RESPONSE:

VIP claims that while the contract requires attorney mentors, it does not stipulate that attorney mentors cannot include other community members in their efforts to assist parolees with reentry as co-mentors. VIP claims that their Advisory Committee was consulted about the exceptions and the committee was kept apprised of the parolee's progress. VIP states: "the fact that VIP may have a very few non-lawyer mentors, does not mean that it has violated the terms of the contracts." VIP further states: "these were special cases and VIP believes it was acting in the spirit of the contract."

AUDIT BRANCH'S COMMENTS:

The purpose and requirement of the contracts are for VIP to facilitate matching volunteer attorneys with parolees in one-on-one relationships. Attorneys were the catalysts in the matches; however, once the match began the attorney no longer participated. If CDCR was to only look at the initial match, VIP did in fact comply with the criteria in the contract. Upon further examination the auditors determined that the attorney did not participate in the one-on-one relationship, as required by the contract. VIP did not adhere to the contract requirements for these matches.

OBSERVATIONS:

A. Weak Match Recordkeeping and Internal Controls

Six of the seven programs audited had inadequate match records. Program directors maintain match files by parolee last name; however, the match reports are maintained by attorney's last name. Program directors do not have documents to substantiate their work or to support their reports.

VIP's RESPONSE:

VIP agrees that match records and internal controls need to be improved and was in the process of implementing such changes on its own before the audit. On January 12, 2009, VIP forwarded to the auditors its framework for several new policies and procedures. VIP's management supports standardizing match records and recognizes the importance. VIP claims that the recommendations made by the auditors through out this audit report will be adopted with the exception of how matches are counted.

AUDIT BRANCH'S COMMENTS:

Auditors commend VIP for their prompt response to the findings and observations. At this time, though, this appears to be a moot point as CDCR has exercised its right to terminate all remaining contracts with VIP Mentors, effective February 28, 2009.

B. Region II Paroles Is Not Satisfied with VIP Mentor's Performance

During the planning stage of the audit, OAC learned that Region II had concerns regarding VIP's performance of services. This contract has been terminated. Due to the termination, OAC did not audit this program.

VIP's RESPONSE:

VIP denies many of the concerns stated in the audit report and provided clarification. VIP is actively working to resolve the invoicing concerns raised by Region II.

AUDIT BRANCH'S COMMENTS:

The concerns regarding the performance of the San Francisco VIP program was received via email from the program analyst who monitors the contract for Region II. The contract was suspended due to the Governor's Executive Order dated September 24, 2008. The contract was later terminated due to the State's current fiscal climate.

C. Questionable Judgment by Attorney Mentors

Volunteer attorneys do not adhere to VIP Mentor's rules (1) prohibiting expensive gifts, and (2) the use of good judgment in their relations with parolees.

VIP's RESPONSE:

VIP did not provide a response to this observation.

BACKGROUND

Founded by attorneys in 1972, VIP's mentoring program was a community service program within the State Bar of California. According to VIP's deputy director, members of the State Bar filed a lawsuit objecting to a portion of their dues subsidizing this community service program. Based on the lawsuit, in 1991 VIP (formally Volunteers in Parole, Inc.) became a separate entity and began operating as a non-profit organization. In 2005, VIP changed their corporate name to VIP Mentors, Inc.

According to the VIP's website, VIP claims to be the only organization in California that recruits and matches attorneys with parolees. Additionally, VIP claims to combine the humanitarian goal of salvaging human lives with the social and economic benefits of building better and safer communities.

CDCR contracts with VIP to provide mentoring services for the following locations within the specific parole regions:

- Region I Sacramento/Fresno/Kern
- Region II San Francisco
- Region III Long Beach/Pasadena
- Region IV Orange/Riverside

At the beginning of this audit, the contracts for Regions I and III had expired (June 30, 2008). The contract for Region II was valid until June 30, 2009, and the contract for Region IV was valid until June 30, 2012. Due to a severe budget shortfall affecting the State, all contracts not directly related to the care or housing of inmates were suspended effective September 24, 2008, by an executive order from the Governor and a directive from CDCR's Secretary Matthew Cate. Subsequently, the executive order was lifted for Region IV and DAPO terminated the Region II contract. On February 27, 2009 the contract for Region IV was terminated.

FINDINGS AND RECOMMENDATIONS

FINDING 1: Noncompliance with the Monthly Match Contract Requirements

Monthly Match Requirements

As designated in each contract the monthly match requirement for all programs, with the exception of Kern, is 30 mentoring matches per month. Kern is a half time program; thus, the requirement is 15 per month. A match is defined as a one-on-one relationship between a parolee and a volunteer attorney. The literature that VIP has on their website and within the individual program offices, states that attorneys check in with their parolees every week and spend between three to five hours a month together on activities.

Program directors do not have, nor do they require, written documentation from the attorneys to substantiate these hours. Program directors do not have, nor do they require, written documentation from parolee participants to corroborate the hours.

The data below was garnered from the program directors' monthly statistical reports and their match hour spreadsheets.

	Program	A Average Monthly Match on Statistical Reports	b Average Monthly Matches with Activity	c Average Monthly Matches Greater than 3 Hours	d Average Monthly % of Contract Requirement	e In Compliance Y/N
Region I	Sacramento	22	17	10	33%	N
	Fresno	32	26	14	47%	N
	Kern	7	5	2	13%	N
Region III	Long Beach	17	10	4	13%	N
	Pasadena	41	30	19	63%	N
Region IV	Orange	20	13	8	27%	N
	Riverside	21	17	8	27%	N

(Monthly averages calculated by total year divided by 12)

- Column (a) the average number of matches claimed by each program director.
- (b) The average number of matches with actual activity (or time spent) between the mentor and mentee.
- (c) The average number of matches with the required minimum of 3 hours of contact per month.
- (d) The average percentage of the monthly requirement met.
- (e) Program match requirements met for the year.

The program director's reported matches (column a) appear to be inflated and can be misleading as they include:

- Matches for which there were no contact between the mentor and mentee for the month.

- Matches for whom the mentor/attorney did not respond to the program director's request for information on match activity (no reported hours).
- Matches that should have been dropped after the mentee discharged from parole (6 months).

NOTE: The deputy director supervising Region I admitted that he became aware of the problems within the Kern program in the early months of 2007 (the Kern program director was hired April 2006); however, VIP's former executive director didn't take any actions. The current executive director (hired in July 2008) terminated employment of the Kern program director in September 2008.

Other Issues Regarding Matches Observed During the Audit

New Matches

The total number of new matches created by each program director and the average new matches per month for the fiscal year (FY) are shown below.

	Program	New Matches for the 07/08 FY	Average Number of New Matches Each Month
Region I	Sacramento	30	2.5
	Fresno	20	1.7
	Kern	5	0.4
Region III	Long Beach	31	2.6
	Pasadena	35	2.9
Region IV	Orange	19	1.6
	Riverside	20	1.7
	Totals	160	13.3

According to CDCR's Computer Statistics unit for May 2008, there were 125,702 active parolees in the State. The program provided services to only 160 new parolees in FY 2007/2008.

Availability of Attorneys

During the entrance conference, the auditors asked the executive director if the adult programs had difficulties recruiting attorney volunteers. Recruiting difficulties were identified during the recent audit of the Division of Juvenile Justice's (DJJ) contracts with VIP. The executive director disagreed with the allegation of recruiting problems pertaining to the DJJ contracts and claimed that the adult parole program did not have these concerns.

The auditors asked each of the program directors if they have difficulties in recruiting attorneys. All program directors, with the exception of the programs located in Sacramento and Fresno, stated they did have attorney recruitment issues. These issues include recruitment in general or for a specific sex (female mentees are not matched with the opposite sex).

The State Bar's website on November 12, 2008, reported the following memberships in the Bar for the counties that had the VIP programs.

Members of the State Bar				
Program	County	Active Members	Inactive Members	Judges
Sacramento	Sacramento	7,462	1,041	80
Fresno	Fresno	1,859	211	59
Kern	Kern	883	111	31
Long Beach/Pasadena	Los Angeles	48,071	6,322	515
Orange	Orange	14,400	1,837	129
Riverside	Riverside	2,894	605	67
San Francisco	San Francisco	16,189	1,781	525
	Totals	91,758	11,908	1,406

Waiting to be Matched

Information was gathered from each program director's monthly statistical report as to the number of attorneys and parolees waiting to be matched. The table below shows by program the monthly averages for FY 2007/2008 of attorneys and parolees waiting to be matched.

	Monthly average number of attorneys waiting to be matched	Monthly average number of parolees waiting to be matched
Sacramento	3	6
Fresno	3	10
Kern	1	10
Long Beach	5	7
Pasadena	5	7
Orange	2	20
Riverside	2	22
Totals	21	82

(Monthly averages calculated by total year divided by 12)

The larger number of parolees waiting to be matched compared to the number of attorneys available supports the attorney recruitment problems. VIP was not able to meet the needs of all parolees wanting to participate in this program.

CRITERIA:

Per contract numbers P05.1007, P05.2012, P07.3008, and P07.4001, Exhibit A, page 1: "Maintain an ongoing monthly average of 30 matches (15 for the Bakersfield area)."

Per VIP's website www.vipmentors.org: "Everything you wanted to know about becoming a VIP Mentor....Mentors check in with their parolees every week by phone and spend between three to five hours a month on activities."

Per Government Code, Section 13401, (b) (3): “All levels of management of the state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds.”

According to the International Standards for the Professional Practice of Internal Auditing, the internal controls over record keeping and reporting must be adequate and effective in order to provide reliable information for decision making and compliance with external requirements.

Per VIP’s website www.vipmentors.org: “VIP Mentors is the only program in California that recruits attorneys, and only attorneys, to be guides, advisors, friends, and role models for parolees as they struggle to turn their lives around.”

Per VIP’s website www.vipmentors.org: “The key component of VIP is the one-on-one relationship with a mentor.”

RECOMMENDATIONS:

- Require all attorneys to accurately document in writing the number of hours they spend with their mentees. Indicate if the contact was by telephone or in person, and provide a synopsis of the type of activities.
- Increase efforts to recruit a sufficient number of attorneys and parolees to participate in the mentoring program.
- Require parolee participants to report in writing the match hours and match activities each month.
- When reporting matches each month, count only those matches with:
 - Supporting documentation and supported match hours.
 - Matches exceeding three hours per month.
- Provide adequate training to all program staff.

FINDING 2: Not Meeting Ancillary Contract Objectives

The contract requires the following program objectives:

	Required Per Year	Objective
a	10 per year for Regions III & IV 6 per year for Region I	Community education presentations to civic groups, service clubs, law firms, schools, commissions, governmental entities, or other such groups.
b	3 per year	Public media relations activities (newsprint articles, public service announcements, radio/television appearances).
c	1 per year	Recognition event involving volunteer attorneys, CDCR staff, CDCR parolees, and community members.
d	1 per year	A social event, orientation, organized group activity for CDCR staff and volunteer attorneys.

The following table reflects the objectives that each of the programs failed to meet during the FY. This information was extracted from each of the program's monthly statistical report for June 2008.

	Program	Objectives Not Met		
Region I	Sacramento	d		
	Fresno	a		
	Kern	b	c	
Region III	Long Beach	a	b	d
	Pasadena	a	b	d
Region IV	Orange	a	b	d
	Riverside			

The program in Riverside was the only program of the seven audited that was found in compliance with the ancillary objectives listed above.

CRITERIA:

Per contract P05.1007, Exhibit A, page 1, Introduction/Services: “. . . 2. In supportive services to the DAPO, provision of six (6) community education presentations to civic groups...3. In supportive services to DAPO, provide four (4) sessions of legal seminars...4. Three (3) public media relations activities. ... 5. Provide one (1) recognition event involving volunteer attorneys, CDCR staff... 6. Provide one (1) event involving CDCR staff and volunteer attorneys.”

Per contracts P07.3008 and P07.4007, Exhibit A, page 1, Introduction/Services: “. . . 2. Three (3) public media relations activities. ...3. In supportive services to the DAPO, provision of Ten (10) community education presentations to civic groups...4. In supportive services to DAPO, provide four (4) sessions of legal seminars...5. Provide one (1) recognition event involving volunteer attorneys, CDCR staff... 6. Provide one (1) event involving CDCR staff and volunteer attorneys.”

RECOMMENDATION:

- Hold all events, public media relations, and community education presentations as required by the contract.

FINDING 3: **Matches not Being Terminated in Accordance with the Contract**

The contract states that a match may count up to six months after discharge, provided that there is continued contact.

Four of the seven programs audited - Sacramento, Kern, Pasadena, and Orange - failed to comply with this contract requirement, due to the fact that they were continuing to count matches beyond the six months.

Matches Not Dropped 6 Months After Discharge			
CDCR #	Required Drop Date	Actual Drop Date	Program
V63538	7/07	9/07	Sacramento
X04235	8/07	9/07	Sacramento
K09397	5/03	12/07	Kern
X08810	9/07	12/07	Pasadena
X23240	10/07	*	Pasadena
W82381	5/08	7/08	Pasadena
X16844	3/08	6/08	Pasadena
X17668	5/08	*	Orange
T97285	2/08	*	Orange
T15440	3/08	*	Orange
W96077	3/08	5/08	Orange
W75400	2/08	3/08	Orange
W75403	5/07	8/07	Orange

* match still active June 08

The program directors in Fresno and Pasadena correctly dropped two matches as shown by the monthly statistical report; however, they failed to update the match hour report. The match hour report did not have a drop date or a drop code as required. The conflicting information in their records is indicative of weak recordkeeping and potentially inaccurate reporting.

CRITERIA:

Per contract numbers P05.1007, P07.3008, and P07.4001, Exhibit A, page 4: "A match may count up to 6 months after discharge from parole if there is continued contact."

RECOMMENDATIONS:

- Close matches according to contract requirements.
- Make the necessary changes to all reports to reflect the accurate match status.
- Maintain accurate and reliable records.

FINDING 4: Noncompliance With Contract Reporting Requirements

The contract requires a formal written report outlining the goals, accomplishments, effectiveness, and procedures utilized in the programs. This report is due by June 30th of each year. According to the executive director, this report has never been produced.

CRITERIA:

Per contract numbers P05.1007, P05.2012, P07.3008, and P07.4001, Exhibit A, page 4: "The contractor agrees to submit a formal written report outlining the goals, accomplishments, effectiveness and procedures utilized in the program, and indicating the effect and participation experience by volunteers and parolees and the impact the program has had on CDCR parolees due by June 30 of each year."

RECOMMENDATIONS:

- Ensure that the yearly report is completed.
- Comply with all contract requirements.

FINDING 5: Occupations Other than Attorneys Being Used as Mentors

The purpose of the contract is for VIP to facilitate volunteer attorney involvement in the criminal justice system by initiating one-on-one relationships between parolees and volunteer attorneys.

According to VIP's website, they are the only organization in California that recruits attorneys, and only attorneys, to be guides, advisors, friends, and role models for parolees. However, auditors discovered six matches in two different programs where the mentors were not attorneys. Attorneys were the catalysts in the matches; however, once the match began, the attorneys did not participate. Furthermore, the program directors stated these were their best matches. According to the VIP Mentors, a key component to their program is one-on-one mentoring.

CRITERIA:

Per contract numbers P05.1007, P05.2012, P07.3008, and P07.4001, Exhibit A, page 1: "Match Volunteer Attorneys to Parolees....The Contractor shall provide services....for the purpose of facilitating volunteer attorney involvement in the criminal justice system....1. In supportive services to the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO), initiate and provide a one-on-one relationship between parolees and volunteer attorneys."

Per VIP's website www.vipmentors.org: "VIP Mentors is the only program in California that recruits attorneys, and only attorneys, to be guides, advisors, friends, and role models for parolees as they struggle to turn their lives around. "

Per VIP's website www.vipmentors.org: "The key component of VIP is the one-on-one relationship with a mentor."

RECOMMENDATION:

- Per contract provisions, only use attorneys as mentors.

OBSERVATIONS AND RECOMMENDATIONS

OBSERVATIONS:

A. Inadequate Match Recordkeeping and Weak Internal Controls

Recordkeeping systems throughout the program should be consistent. Based on the information contained in the program files, the auditors were unable to determine if VIP was providing services required by the contract.

VIP does not have adequate documentation or recordkeeping procedures for their programs. The program directors that took the initiative to maintain supporting documents did not have records to substantiate the match hours claimed on the match reports. Also, the notes contained in the files were vague or of little substance.

Additionally, the program directors did not document any information regarding the quality of the match (i.e., was the parolee satisfied with their mentor, did they have common interests, did they look forward to spending time with their mentor).

Specific Program Issues

Pasadena

The program director stated he thought about keeping notes in his match files, but he was not directed to do so by the executive office.

The program director used the same attorney application form for each match in which the attorney participated. When the attorney's information changed, the program director used correction fluid to white out the old information. He then recorded the new information over the white out.

Notes were made on the attorney and mentee application forms and the parolee face sheets in such a manner that they were unreadable or not understandable.

The attorney applications contained notes from every match in which they participated. For example, the attorney application for a current match with a parolee named Alysa also contained notes from a previous match in 2005 with a parolee named Nancy.

Match files were paper clipped together and grouped together by letter. For example, all of the attorneys with a last name beginning with A were grouped in one folder. Additionally, the files were kept by attorney's names rather than parolee's names. Ideally, a separate file should be maintained for each match by the parolees' name, as this is a parole program.

The program director kept files in various locations, and he was unable to locate one file.

Paperwork for one match in the closed files began in May 2007 and ended April 2008; thus, it was active during the scope of the audit. However, this match did not appear on the match hour report, nor was it included on the list of matches for the FY 2007/08 that the program director furnished to OAC prior to the start of fieldwork. The attorney was listed on the match report with a different parolee.

Orange, Riverside, Sacramento, Fresno, and Kern

The program directors track their files by the parolee's last name, although the match hours report is by the attorney's last name.

CRITERIA:

Per Government Code, Section 13401, (b) (3): "All levels of management of the state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds."

According to the International Standards for the Professional Practice of Internal Auditing, the internal controls over record keeping and reporting must be adequate and effective in order to provide reliable information for decision making and compliance with external requirements.

RECOMMENDATIONS:

- Each program should be consistent in the manner which they maintain the program files.
- Provide adequate documentation in the parolee match files, and ensure the documentation is legibly handwritten or typed.
- Maintain a match file for each parolee, filed alphabetically by their last name.
- Maintain match hour reports by the parolee's name followed by the attorney's name.
- Avoid using correction fluid on official match documents.
- Ensure that match notes are placed in the appropriate files.
- Obtain a new application from an attorney for each match in which they are a mentor.

B. Region II Paroles is not Satisfied with VIP Mentor's Performance

A contract analyst and the Parole Administrator for Region II's paroles expressed concerns regarding the VIP program and their business practices. Also, it appears that CDCR did not receive the contracted services.

Listed below are Region II's concerns presented to OAC through an email:

- VIP submitted an invoice with supporting documentation; however, the documentation did not pertain to an event for parolees, rather it appeared it was related to a VIP business meeting.
- The executive director provided a list of parolees who signed up for the program; however, subsequent match documentation was not provided indicating the parolees were active matches.
- A photograph of people at a bowling alley was submitted with an invoice as supporting documentation; however, details as to the date, location, and identification of the individuals depicted in the photograph were not included.
- A parole agent's request for VIP's monthly reports went unanswered.
- VIP's executive director stated VIP has attorney recruitment problems. The executive director held a seminar to recruit attorney volunteers; however, she claimed there was little interest in the VIP program on behalf of the attorneys.
- VIP is billing for services that are not being provided as outlined in the contract. The contractor agreed to perform these duties. VIP is not in compliance with the contract.

Region II's contract was suspended due to the Governor's Executive Order dated September 24, 2008, and was not reinstated by DAPO.

CRITERIA:

Per contract P05.2012, Exhibit A, page 1: "The contractor shall provide the services....includes but is not limited to the following...one-on-one relationship between parolees and volunteer attorneys, maintaining an ongoing monthly average of thirty (30) matches and three (3) public media relations activities...In supportive services to DAPO, the provision of ten (10) community education presentations to civic groups, service clubs, law firm schools, commissions, governmental entities, or other such groups...additionally, in support to DAPO, provide four (4) sessions of legal seminars/street law and/or recruitment presentations to CDCR parolees; provide one (1) recognition event involving volunteer attorneys, CDCR staff, CDCR parolees and community members, and one (1) event involving CDCR staff and volunteer attorneys....The contractor agreed to perform its duties under the Agreement to the satisfaction of the Deputy Director of the DAPO or his/her designee."

Per Government Code, Section 13401, (b) (3): "All levels of management of the state agencies must be involved in assessing and strengthening the systems of

internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds.”

According to the International Standards for the Professional Practice of Internal Auditing, the internal controls over record keeping and reporting must be adequate and effective in order to provide reliable information for decision making and compliance with external requirements.

C. Questionable Judgment by Attorney Mentors

VIP provides an informational pamphlet to new mentors. VIP also has extensive information, such as frequently asked questions, on their website for prospective attorneys regarding the program. Included in this information are VIP’s formal rules, which outline safety concerns, prohibits gifts, and prohibits attorney/client relationships with their mentees.

The following instances are examples of questionable behavior or questionable matches as provided by the respective program directors.

Pasadena

An attorney was matched with a parolee. The attorney then introduced the parolee to an individual (not an attorney) wanting to be a mentor. After the new match (the parolee and the non-attorney) started, the attorney did not have continued contact with the parolee. The attorney did however pay for kickboxing lessons for the match.

Long Beach

The program director informed the auditors that one match was so compatible, the mentor and mentee had sleepovers. When the auditors questioned this statement, she recanted the story.

Riverside

The auditors questioned the high match hours of a match in the Riverside program. The program director said the attorney and parolee are good friends and it is not unusual for the parolee to spend weekends at the attorney’s home. This appears inappropriate, as this relationship has progressed beyond the mentor/mentee relationship and should no longer be considered a match.

Kern

A match was identified as having reported unusually high match hours. The deputy director said the attorney hired the parolee to work in her law office. It is questionable as to whether this should be counted as a match, as the hours represent an employer/employee relationship.

CRITERIA:

Per VIP's website, www.vipmentors.org: "VIP has a minimum of formal rules:

- You may not loan your parolee money or offer expensive gifts.
- Always use good common sense in your relationship with your match."

RECOMMENDATIONS:

- Provide all attorneys currently participating in the program with a copy of the VIP rules.
- Ensure all future attorney participants receive a copy of the rules.
- Require all program directors that have knowledge of inappropriate activities to require their mentors to either modify the behavior or terminate the match.
- Do not count as a match those matches in which an employee/employer relationship exists.

GLOSSARY

CDCR	California Department of Corrections and Rehabilitation
DAPO	Division of Adult Paroles
DJJ	Division of Juvenile Justice
FY	Fiscal Year
GAO	General Accounting Office
OAC	Office of Audits and Compliance
VIP	VIP Mentors

FINDING 1: Noncompliance with the Monthly Match Contract Requirements

A. MONTHLY MATCH REQUIREMENTS

VIP Mentors' Response: VIP disagrees with the finding in the Preliminary Audit Report ("Report") that all programs did not meet the contract requirement of maintaining a monthly average of 30 matches. In fact, the audit results demonstrate otherwise.

The scope of work in provisions in contracts nos. P05.1007, P07.3008, and P07.4001 essentially state that: "In supportive services to the CDCR, Division of Adult Parole Operations, initiate and provide a one-on-one relationship between parolees and volunteer attorneys. Maintain an ongoing monthly **average** of 30 matches." It is not stated in the contract that this "monthly average" is to be based upon a fiscal year or whether it is to be determined by the average performance during the entire contract period. Because the subject audit arbitrarily determined how to perform this averaging calculation without regard to the entire contract period, it inaccurately concludes that VIP did not comply with monthly contract requirements. Moreover, contrary to the assertions of the Report, the contracts do **not** require that matches meet monthly, or for a specified number of hours each month. It cannot be said that VIP violated non-existent terms of the contracts.

Moreover, pursuant to well-established principals of contract interpretation, VIP objects to the application of any performance measurements or benchmarks not found in the contract for purposes of determining program compliance. Specifically, data reported in the chart on page 4, column (d) "Average Monthly % of Contract Requirement" and in column (e) "In Contract Compliance Y/N" is not accurate because the number of matches has been reduced by performance measurements and criteria not required under the terms of the applicable contracts. For example, although VIP's website and informational material indicates that "mentors check in with parolees every week by phone and spend between three to five hours a month on activities," this is informational only and is intended to provide prospective mentors with general information about mentoring. It was not intended to memorialize a specific contract requirement. Informational material provided to prospective mentors is not the same as contracted to terms.

In addition, the Report concludes, without foundation, that matches "appear to be inflated" citing the fact that simply because some matches had no contact in a month, that these should not be counted as matches. This is an artificial distinction and has no bearing upon whether a quality mentor/mentee relationship exists or whether such a relationship is in keeping with the terms of the contracts. As previously noted, there is **no** contractual requirement to meet monthly, and if so, how much time should be spent together. Some mentors/mentees may have significant contact in one month, take a month off, and then renew their bonds the following month. This scheduling does not make the relationship

any less significant nor render VIP “out of contract compliance.” To interpret otherwise, requires a reading outside the four corners of the agreements.

Based upon the false assumptions made with regards to what constitutes contractually required “activity” and “hourly” requirements for purposes of determining contract compliance, the ultimate conclusion that none of the programs were in compliance is flawed and not supported.

B. NEW MATCHES

VIP Mentors’ Response: The Report appears to draw significance from the fact that there are 125,702 parolees in the State, yet VIP “only” provided services to 160 new parolees in Fiscal Year 2007/08. It is unclear however, why this statistic has any bearing upon whether VIP was in compliance with the terms of the contracts. For obvious reason, not all parolees are open to having mentors and VIP serves the select parolee base that wants to turn their lives around and can benefit from an attorney friend and role model. This subset of the general parolee population is by necessity smaller than the entire universe of parolees.

By way of background, it helps to understand the steps involved in making a new match and the program director’s job duties when considering the number of new matches that can reasonably be required from one person. Program directors are responsible for everything from daily clerical tasks, to recruiting new mentors, recruiting parolees, participating in weekly PACT meetings, case management, match maintenance, organizing events and group activities, looking for media opportunities, completing monthly reports, and making matches.

New matches require that the program directors participate in four separate meetings: interview/orientation with the mentor, interview/orientation with the parolee, the first match introduction meeting, and the second follow-up match meeting. (Depending on the match, the second match meeting may not require the program director’s participation.) For example, if a program director makes four new matches they will have participated in 12 to 16 separate meetings with durations of one hour or longer, not including travel time. When added to the other ancillary program requirements, this limits the number of new matches that can be made by one person.

As set forth above, while it is an unfortunate reality that at certain points in time there may be more parolees waiting for mentoring services than matches available, it cannot be said that VIP has “failed” to meet the needs of all parolees wanting to participate. There is no evidence cited in the Report that those parolees who want to participate never obtain a match or that even if some parolees did not get matched that somehow VIP did not provide a valuable service to those who were able to participate. Moreover, even if it were accurate that VIP did not match all parolees wanting to

participate, the contracts do **not** require that VIP match **all** parolees as suggested. Again, this is an artificial standard and it is not reasonable to find VIP in noncompliance with contract terms that do not exist.

C. AVAILABILITY OF ATTORNEYS

VIP Mentors Response: Recruiting attorneys or recruiting from any other volunteer group for the parolee population will always present some difficulties. This can be largely attributed to the difference in demographics between the volunteer population which is represented by the general population (attorneys or any other groups) and the demographics of the parolee population. For instance, females to males in the parolee population are usually 1 to 10. Females to males in the volunteer community are 6 to 10. Generally speaking, females volunteer more frequently than do males. Other factors that can create recruiting challenges are geographic distances between mentor and mentee, age, and commitment offenses, such as sex-offenders.

Generally speaking, however, recruiting attorneys is not difficult. Recruiting for parolees with special needs, demographics or circumstances will always be more difficult, regardless of the volunteer group.

The Report concludes that there are attorney recruiting “problems” with very little analysis of why it reaches this conclusion - other than to state that there are many attorneys in the State and more parolees waiting to have matches than attorneys. Interestingly, the Report recognizes that there are 125,702 parolees in the State, yet only 91,758 active members of California State Bar. Because parolees outnumber attorneys, it should be no surprise that there is a greater demand for services on the parolee side. Without more information, it is misleading to conclude that this ratio suggests a “problem.” In fact, and as the Report recognizes, VIP made over 160 new matches in 2007/08. This translates into an almost 30 match per program, a statistic fully in keeping with the spirit and intent of the governing contracts.

Notwithstanding the great success VIP had in recruiting new attorneys into the program in 2007/08, the fact that recruitment is hard work and may not always be easy does not translate into a recruitment “problem.” For example, the Report states that according to unidentified program directors, “with the exception of programs located in Sacramento and Fresno” some reported “recruitment issues¹” i.e. difficulties finding the same sex parolee and attorneys to match. The Report does not elaborate on what these “recruitment issues” consist of (which in itself renders the opinion troubling), or whether this opinion is validated or even correct. The fact that VIP may have a female attorney waiting for a match and only male parolees available at a given moment (which is not

¹ Report p. 5.

unusual) does not suggest a problem per se, but merely the historical realities of the program.

D. WAITING TO BE MATCHED

VIP Mentors Response: The Report's conclusion that there are more parolees waiting to be matched than attorneys available may itself be inaccurate – but again, even if true, this fact alone does not support a claim that VIP failed to comply with contract requirements, only the reality that there are more parolees than attorneys.

The data to support the Report in this regard comes from VIP's Monthly Statistics Report and is used by VIP strictly as an internal control for management. First, the entries for "Parolees Waiting To Be Matched" and "Attorneys Waiting To Be Matched" represent only those individuals who have completed a VIP application. These numbers help management evaluate program director performance, and help define whether a given program director is doing his or her job. Signed applications represent recruitment activity in both the parolee and attorney categories. The individuals represented by these numbers are constantly changing as the parolee or attorney waiting to be matched is usually matched in the following month and new recruits step up to the waiting category. The Report misinterprets this data as individuals who have not or will not be served, when the data actually represents individuals who have completed the enrollment and orientation process and therefore have a high probability of being served.

As stated, historically there have always been more parolees waiting to be matched than attorneys. This is common among all mentoring organizations that serve the more challenging populations. A program director without parolees waiting to be matched is a program director that is most likely not doing his or her job.

These internal numbers serve as a general guide to help the manager determine whether a program director needs help recruiting from one category or another or is spending too much time recruiting in one area. For example, in Pasadena, Long Beach, Fresno and Sacramento, we see numbers of parolees waiting for matches between 6-10 and numbers of attorneys waiting ranging from 3-5. These numbers show a good balance of effort between recruiting parolees and attorneys and indicate activity levels high enough to expect 3-4 new matches from each program. Riverside and Orange have a disproportionate number of attorneys to parolees which may signal a problem, but it is hard to tell from the internal data sighted because the numbers reported on the chart on page 6 have been averaged over a one-year period. This data is only useful when examined on a month to month basis. As corrective action is taken, management can monitor these numbers each month to see if the weaker category is improving. In sum, there is a danger in drawing firm conclusions based upon internal data without having a strong understanding of the purpose and limitations of that data.

VIP will never be able to match all parolees who request mentors, just as employment programs will never find jobs for all of the parolees who want to work. It is important to note that VIP does not turn away parolees who self-refer; with the understanding the AOR must approve their participation. Some parolees may be more difficult to match and could be on the waiting list longer than others while the program director finds an appropriate mentor. To say, "VIP has failed to meet the needs of all parolees wanting to participate in this program" is a true statement. To be held to a standard of matching "all" or 100% seems a little unreasonable, given the population we serve and is not required by the terms of the contracts.

FINDING 2: Not Meeting Ancillary Contract Objectives

VIP Mentors Response: VIP does not dispute the findings, but wants to add that VIP's statewide staff also facilitates media events and presentations that impact the regions under contract, but have not been considered in the Report. While a program director may not meet these tasks specifically; VIP statewide fills this roll living up to the spirit of the contracts.

FINDING 3: Matches Not Being Terminated in Accordance with the Contract

VIP Mentors Response: VIP does not dispute the findings in some instances, but wants to offer an explanation for occasional delays in terminating matches, particularly those that were dropped 30-60 days after the expiration date. VIP program directors do not have access to the Cal-Parole database to determine the "official" date of discharge and often go by the date the parolee receives his or her discharge card in the mail. Discharge cards can take up to 60 days to receive. Eight of the thirteen matches listed as not terminating in accordance to the contract, terminated between 30-90 days beyond the required date. VIP makes efforts to substantially comply with its obligations and terminates matches when it is reasonably informed of the status.

FINDING 4: Noncompliance with Contract Reporting Requirements

VIP Mentors Response: While the terms of the contracts request such annual reports, the historic course of dealing has been not to require them. With regards to reporting however, each program director provides his or her local Advisory Committee with a report each quarter reflecting the progress of each program and the achievement of match requirements and ancillary contract objectives. Advisory Committee members include parole supervisors and/or district administrators, local attorneys, judges and interested community members. Advisory Committees meet no less than 4 times per year, making this process transparent and again, keeping with the spirit of the governing

contracts. Although these reports are typically not provided as required in the contract, parole departments have had some oversight of program outcomes at the district level.

FINDING 5: Occupations Other Than Attorneys Being Used as Mentors

VIP Mentors Response: While the contract requires attorney mentors, it does not stipulate that attorney mentors cannot include other community members in their efforts to assist parolees with reentry as co-mentors. There were 2 findings in Long Beach of the 43 cumulative matches made in FY 07-08, and 4 findings in the Pasadena office of the 69 cumulative matches made in FY 07-08. Three of the four findings in Pasadena (W-35997, W-56533, and W-56965) were co-mentoring matches where both the attorney and the community member served on the VIP Advisory Committee. One of the two findings in Long Beach (X-19872) was a co-mentoring match where both the attorney and the community member served on the VIP Advisory Committee. Committee members are knowledgeable in all VIP matters and experienced mentors for former offenders. Committee members meet regularly, and oversight of these matches was clearly maintained by the attorney mentors and local parole staff who serve on these committees.

The second co-mentoring match in Long Beach (F-30701) was a case where the attorney was transferred to a court in north Los Angeles County which would prevent him from meeting with his parolee on a regular basis. The parolee was a 19 year old male living in an area in Compton where gang activity and drugs were prevalent. In keeping with what was in the best interest of the parolee, VIP and the attorney mentor opted not to end the match, but instead enlisted the assistance of a trusted community member in Compton to help guide and support the parolee. The community member was trained and oriented, and both the attorney and the VIP program director maintained oversight of the match. The attorney spent personal time with the mentee, but not on a regular basis. The Advisory Committee was also consulted about this exception and was kept apprised of the parolee's progress.

The two program directors at the Pasadena and Long Beach offices disagree with the characterizations of their comments stating, "these matches [co-mentoring matches] were their best matches", and claim to have said, "these matches were among their best matches." The Report also fails to take into consideration the fact that VIP also serves other constituents and is partially funded by private grants and donations which do not make the same limitations. The fact that VIP may have a very few non-lawyer mentors, does not mean that it has violated the terms of the subject contracts and there is no exclusive requirement that VIP serve only the state contracts. Further, these were special cases and VIP believes it was acting in the spirit of the contract.

OBSERVATIONS:

A. Weak Match Recordkeeping and Internal Controls

Program Compliance Audit DAPO FY07-09
Preliminary Audit Report Response
VIP Mentors
March 7, 2009

VIP Mentors Response: VIP agrees that match records and internal controls need to be improved and was in the process of implementing such changes on its own before the audits. On January 12, 2009, VIP forwarded to the State its framework for implementing several new policies and procedures to address some of these issues and is currently in the process of implementing new controls statewide.

VIP management supports standardizing match records and recognizes the importance of standardizing as it relates to internal controls. The recommendations made by the OAC through out this Report will be adopted and made part of the new policies and procedures, with the exception of the recommendation to not count matches that have decided to hire their parolee match partner. Employment is extremely difficult for parolees and VIP doesn't want to discourage the potential for employment opportunities, but will seek to find a way to more accurately account for the time the parolee and attorney spend together in non-employment activities.

B. Region II Paroles is Not Satisfied with VIP Mentors Performance

VIP Mentors Response: VIP's current Executive Director, Sharon Beverstock, denies having made comments to Region II that she was having attorney recruitment problems. Attorney recruitment is part of the program director's responsibility and it was probably a statement made by Claire Nims, the Program Director. The Executive Director also states she did not hold a seminar to recruit attorneys, but Program Director, Claire Nims, attended a seminar at the San Francisco Public Defender's Office to recruit new mentors. At this seminar Ms. Nims was not allowed to sign up new mentors, but instead was provided with a list of attorneys interested in learning more about the program.

Ms. Beverstock and the San Francisco Program Director, Claire Nims, met with Henry Pineda from Region II Headquarters on May 7, 2008 to provide a progress report. The report included a list of attorneys that recently signed applications to become mentors and listed attorneys Ms. Nims had appointments with to sign mentor applications. At the close of this meeting Mr. Pineda advised he was leaving his position at Region II headquarters and that his replacement would be in contact with VIP. Ms. Beverstock has had no further contact from Region II.

It should be noted that Ms. Nims was on probation for poor performance at this time and was scheduled to be terminated, but was laid off instead when VIP received notification that the Region II contract had been suspended under the Governor's Executive Order.

Ms Beverstock is actively working to resolve the invoicing concerns raised by Region II.